

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
	:	99cr157 (DLC)
-v-	:	
	:	<u>MEMORANDUM OPINION</u>
OSCAR MONZON (Register No. 49173-	:	<u>AND ORDER</u>
054),	:	
	:	
Defendant.	:	
	:	
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DENISE COTE, District Judge:

This Opinion grants a motion by Oscar Monzon ("Monzon") for compassionate release due to his heart condition and the COVID-19 pandemic. In November 2001, Monzon was sentenced by the Honorable Robert Ward to life in prison following his conviction at trial. Monzon suffered a heart attack in May of 2015.

On August 27, 2018, this Court reduced Monzon's sentence to 360 months' imprisonment pursuant to 18 U.S.C. § 3582(c)(2). His term of imprisonment is to be followed by a term of supervised release of 10 years. Monzon is currently imprisoned in the general population at the low-security Federal Correctional Institution Allenwood. He is 54 years of age. The Bureau of Prisons projects that Monzon will be released in June 2027.

On November 13, 2019, Monzon filed a motion pursuant to 18 U.S.C. §§ 3582(c)(1)(A) and 4205(g) for a reduced sentence. The

motion was denied for his failure to exhaust his administrative remedies, as required by § 3583(c)(1)(A). United States v. Monzon, No. 99CR157 (DLC), 2020 WL 550220, at *1 (S.D.N.Y. Feb. 4, 2020).

On February 18, 2020, Monzon requested that the warden of his facility bring a motion for a reduced sentence on his behalf because of his cardiovascular disease. The warden denied the request. On March 23, having exhausted his administrative remedies, Monzon moved this Court for release pursuant to § 3582(c)(1)(A) because of his cardiovascular condition.¹ The Government opposed Monzon's petition, and on May 7, 2020, Monzon's application was denied because Monzon's cardiovascular condition did not constitute "extraordinary and compelling reasons" justifying early release.

Meanwhile, on April 16, while his March 23 motion was pending, Monzon made another request to the warden for early release pursuant to § 3582. This time, he cited the combination of his pre-existing cardiovascular condition and the COVID-19 public health emergency as grounds for modification of his sentence. The warden denied that request on April 24. Monzon brought the instant petition on May 11.² The Government filed

¹ The March 23 motion was received and docketed on April 22.

² The May 11 motion was received and docketed on May 22.

its opposition on May 27. On May 28, Monzon filed a supplement to his motion.

Monzon's petition is granted. Upon receipt of a properly filed § 3582(c)(1)(A) motion a court may reduce the petitioner's sentence if, after consideration of the 18 U.S.C. § 3553(a) factors, it finds that "extraordinary and compelling reasons" warrant such a reduction.

The Government agrees that Monzon's cardiovascular condition puts him at a greater risk for a serious or life-threatening COVID-19 infection. That risk, the Government acknowledges, establishes "extraordinary and compelling reasons" for a reduction of sentence. The Government opposes Monzon's early release on two grounds. First, it maintains that releasing Monzon would not eliminate, and would perhaps even increase, the risk that he would be exposed to the virus that causes COVID-19. Second, the Government argues that the factors set forth in 18 U.S.C. § 3553(a) militate against Monzon's release.

Monzon's offense was serious, involved violence and justified a significant sentence. He has never satisfactorily acknowledged his culpability or the harm that he caused. On the other hand, he is now 54 years of age, has suffered a serious heart attack and has served roughly 240 months of his 360-month

sentence. He is due to be released from custody in about seven years. He is facing an additional period of 10 years on supervised release.

In the midst of the COVID-19 pandemic, this history and the § 3553(a) factors weigh in favor of Monzon's release. An assessment about the risk of recidivism that Monzon poses has been altered by many factors, including his age and health. The 30-year sentence that this Court imposed in 2018 was the lowest sentence that could be imposed under the law that permitted a reconsideration of his life sentence. The length of that sentence is thus only one factor in any assessment of the appropriate sentence for Monzon today. The Court must also consider the facts underlying his conviction, his record during incarceration, his current health, and the health risks to particularly vulnerable inmates created by the pandemic. As the Government concedes, Monzon possesses one of the most significant comorbidities for COVID-19. Considering the § 3553(a) factors in light of this new danger, the Court exercises its discretion to reduce Monzon's term of imprisonment. The sentence to be imposed will be determined following receipt of Monzon's release plan.

Accordingly, it is hereby

ORDERED that Monzon shall cooperate with the United States Probation Office for the Southern District of New York to develop a suitable release plan.³


IT IS FURTHER ORDERED that the Bureau of Prisons and the United States Attorney's Office for the Southern District of New York shall take all reasonable steps to facilitate communications necessary for the development of Monzon's release plan.

IT IS FURTHER ORDERED that the Probation Office shall provide a status report by June 16, 2020 as to the development of a release plan.

IT IS FURTHER ORDERED that the Probation Office and the United States Attorney's Office shall by June 16, 2020 recommend conditions of supervised release that will be imposed on Monzon.

SO ORDERED:

Dated: New York, New York
June 2, 2020



DENISE COTE
United States District Judge

³ In a letter of April 27, 2020, Monzon's former attorney represented that three of Monzon's family members would allow him to live with them if he were released: his son, Osdith Monzon; his sister, Francia Monzon; and his sister Fatima Reynoso. Two of these individuals are described as living in New York State and one in Florida.